

ENVIRONMENTAL PROTECTION COMMISSION[567]

Adopted and Filed

Pursuant to the authority of Iowa Code section 455D.7, the Environmental Protection Commission hereby amends Chapter 105, “Organic Materials Composting Facilities,” and Chapter 113, “Sanitary Landfills for Municipal Solid Waste: Groundwater Protection Systems for the Disposal of Nonhazardous Wastes,” Iowa Administrative Code.

“Yard waste” is defined in subrule 105.1(1) as “vegetative matter such as grass clippings, leaves, garden waste, brush and trees, and any clean wood waste which is necessary as bulking agent and which is free of coatings and preservatives.” These amendments allow yard waste to be disposed of in a sanitary landfill when the following circumstances occur:

- When yard waste is collected for disposal as a result of a severe storm and the yard waste originates in an area declared to be a disaster area.
- When yard waste is collected for disposal to control, eradicate, or prevent the spread of insect pests, tree and plant diseases, or invasive plant species.
- When yard waste is disposed of in a sanitary landfill that operates a methane collection system that produces energy.

In addition, these amendments remove the requirement for municipalities that provide for the collection of solid waste to also provide for the separate collection of yard waste.

The exemptions to the prohibition of yard waste disposal were added to Iowa Code section 455D.9(1) in 2014 Iowa Acts, Senate File 2212, signed by Governor Branstad on April 3, 2014, and 2015 Iowa Acts, House File 266, signed by Governor Branstad on March 31, 2015. The requirement for municipalities to provide for the separate collection of yard waste was removed from Iowa Code section 455D.9(2) in 2013 Iowa Acts, House File 225, signed by Governor Branstad on March 28, 2013. These amendments are needed to make changes to existing administrative rules so that they are consistent with the above legislation and the Iowa Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2539C** on May 25, 2016. A public hearing was held on June 14, 2016, in the Wallace State Office Building. The Department of Natural Resources also accepted written comments through June 14, 2016.

The Department received one written comment from Cindy Turkle of Turkle-Clark Environmental Consulting. Ms. Turkle expressed concern that allowing landfills that operate a methane recovery system that produces energy to accept yard waste for disposal will make it difficult for residents to understand why some communities are allowed to include yard waste with trash while others are not. She also expressed concern that sanitary landfills that are not allowed to accept yard waste will have difficulty keeping yard waste out of the landfills. Ms. Turkle suggested expanding the exemption to all sanitary landfills.

Iowa Code section 455D.9(1) prohibits the disposal of yard waste in a landfill except under certain circumstances. In 2015, the Iowa Legislature passed 2015 Iowa Acts, House File 266, which added an exemption to the yard waste disposal prohibition for landfills that operate a methane recovery system that produces energy. Because the law specifies that yard waste is prohibited from landfill disposal other than in the specific circumstances listed, the Department does not have the authority to allow yard waste disposal at landfills that do not have a methane recovery system that produces energy; nor can the Department prohibit yard waste disposal in landfills that operate a methane recovery system that produces energy. Therefore, no change to these amendments has been made in response to public comment. The only change to the amendments from those published under Notice is a grammatical correction in Item 4 to change the plural word “purposes” to “purpose.”

The Environmental Protection Commission adopted these amendments on August 10, 2016.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 455D.9.

These amendments will become effective on October 5, 2016.

The following amendments are adopted.

ITEM 1. Amend subrule 105.1(3) as follows:

105.1(3) Burial of yard waste at a sanitary landfill is prohibited. ~~Acceptance of yard waste by a hauling firm or at a transfer station for burial at a sanitary landfill is also prohibited. However, yard waste that has been separated at its source from other solid waste may be accepted by a sanitary landfill for the purposes of soil conditioning or composting. Yard waste accepted by a sanitary landfill for the purposes of soil conditioning shall be used only on finished areas of the landfill that have received the final earthen cover, developed areas with intermediate cover, and restoration of soil borrow areas. Burning of yard waste at a sanitary disposal project is prohibited., except in the following circumstances:~~

a. When the yard waste is collected for disposal as a result of a severe storm and the yard waste originates in an area declared to be a disaster area in a declaration issued by the President of the United States or the governor.

b. When the yard waste is collected for disposal to control, eradicate, or prevent the spread of insect pests, tree and plant diseases, or invasive plant species.

c. When the yard waste is disposed of in a sanitary landfill that operates a methane collection system that produces energy. A methane collection system that burns landfill gas without using the energy for a purpose other than reducing the amount of methane released is not considered to be a system that produces energy.

ITEM 2. Amend subrule 105.1(4) as follows:

105.1(4) Each city and county shall, by ordinance, require persons within the city or county to separate yard waste from other solid waste generated. ~~Municipalities which provide for collection of solid waste shall also provide for separate collection of yard waste.~~

ITEM 3. Renumber subrule **105.1(5)** as **105.1(6)**.

ITEM 4. Adopt the following new subrule 105.1(5):

105.1(5) Yard waste that has been separated at its source from other solid waste may be accepted by a sanitary landfill for the purposes of soil conditioning or composting. Yard waste accepted by a sanitary landfill for the purpose of soil conditioning shall be used only on finished areas of the landfill that have received the final earthen cover, developed areas with intermediate cover, and restoration of soil borrow areas. Burning of yard waste at a sanitary disposal project is prohibited.

ITEM 5. Amend subparagraph **113.8(1)“b”(13)** as follows:

(13) Yard waste, ~~except in the following circumstances:~~

1. When the yard waste is collected for disposal as a result of a severe storm and the yard waste originates in an area declared to be a disaster area in a declaration issued by the President of the United States or the governor.

2. When the yard waste is collected for disposal to control, eradicate, or prevent the spread of insect pests, tree and plant diseases, or invasive plant species.

3. When the yard waste is disposed of in a sanitary landfill that operates a methane collection system that produces energy. A methane collection system that burns landfill gas without using the energy for a purpose other than reducing the amount of methane released is not considered to be a system that produces energy.

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